

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL J. QUILLING,

Plaintiff,

File No. 1:03-CV-236

v.

HON. ROBERT HOLMES BELL

TRADE PARTNERS, INC., et al.,

Defendants.

ORDER APPROVING REPORT AND RECOMMENDATION

Magistrate Judge Ellen S. Carmody filed a Report and Recommendation ("R&R") on March 7, 2006, (Docket # 1239), recommending that the Receiver's motion to exclude expert opinion testimony (Docket # 943) be granted; that the Receiver's motion for summary judgment against Columbian Mutual Life Insurance Company ("Columbian Mutual") (Docket # 1033) be denied; and that Columbian Mutual's motion for summary judgment (Docket # 1041) be granted. The Receiver has filed objections only to that portion of the R&R addressing the parties' cross motions for summary judgment.

The Receiver's objections to the R&R are essentially a repetition of the arguments it presented to and rejected by the Magistrate Judge. Upon de novo review, the Court is satisfied that the R&R correctly found that the undisputed facts show that Columbian Mutual did not accept Trade Partners, Inc.'s check as absolute and unconditional payment of a premium due; that Columbian Mutual did not waive its right to insist upon forfeiture of the

policy for non-payment of a premium; and that Columbian should not be estopped from forfeiting the policy. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation dated March 6, 2006, (Docket # 1239) is **APPROVED AND ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that the Receiver's motion to exclude expert opinion testimony (Docket # 943) is **GRANTED**.

IT IS FURTHER ORDERED that the Receiver's motion for summary judgment (Docket # 1033) is **DENIED**.

IT IS FURTHER ORDERED that Columbian Mutual Life Insurance Company's motion for summary judgment (Docket # 1041) is **GRANTED**.

Date: March 31, 2006

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE